

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND

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SIMONE E. PHOENIX, )  
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Plaintiff,           )  
                        )  
                        )  
v.                     )                   C.A. No. 20-152 WES  
                        )  
                        )  
DAY ONE, et al.,     )  
                        )  
                        )  
Defendants.           )  
                        )  
                        )

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**ORDER**

Plaintiff filed a Motion for Leave to File a Second Amended Complaint ("Motion to Amend"), ECF No. 24, seeking to add five new defendants: Carla Cuellar, Family Services Rhode Island, Inc., and three officers of the Providence Police Department - Deputy Chief Thomas Verdi, Officer Francisco Colon, and Officer Michael Wheeler. Although the statute of limitations on her claims expired prior to the filing of her Motion to Amend, Plaintiff argues that the proposed amendment relates back to the time of the original pleading under Rule 15(c)(1)(C) of the Federal Rules of Civil Procedure. See Mem. Supp. Mot. to Amend 4-12, ECF No. 24-1. The police Defendants filed an objection to the addition of the three officers. See Defs.' Obj., ECF No. 25.

On December 11, 2020, Magistrate Judge Patricia A. Sullivan filed a Report and Recommendation, ECF No. 28, recommending that the Court grant in part and deny in part Plaintiff's Motion to Amend. Magistrate Judge Sullivan explained that Plaintiff failed to name the three officers in her original Complaint, ECF No. 1, not because of a mistake regarding their identities, but because she lacked knowledge that they were involved in the incident. See R. & R. 10. Due to this lack of mistake, the amendment fails to meet the relation back standard under Rule 15(c)(1)(C). See id. Therefore, the claims against Verdi, Colon, and Wheeler are barred by the statute of limitations, and the Motion to Amend must be denied as futile as to those would-be defendants. See id. Magistrate Judge Sullivan further recommended that the Motion to Amend be allowed as to Carla Cuellar and Family Services Rhode Island due to lack of objection. See id.

After having carefully reviewed the relevant papers, and having heard no objections, the Court ACCEPTS the report and ADOPTS the recommendations and reasoning set forth therein. Plaintiff's Motion for Leave to File a Second Amended Complaint, ECF No. 24, is GRANTED IN PART and DENIED IN PART. Plaintiff is

directed to file a Second Amended Complaint in conformance with this Order.

IT IS SO ORDERED.



William E. Smith  
District Judge  
Date: January 7, 2021